

American Worker Project:

**Securing the Future of America's
Working Families**

SUBCOMMITTEE REPORT

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BACKGROUND

On July 8, 1997, the Committee on House Oversight commissioned a Subcommittee on Oversight and Investigations project, the “American Worker at a Crossroads Project” (American Worker Project), to study workplace policies that affect Americans’ job security in the new century. The goal was not to propose specific legislation, but to take a broad view of the American workplace at the dawn of a new century, and to begin a discussion of the changes needed to ensure that this country remains the best and most productive work environment in the world.

INTRODUCTION

People devote their most precious resources - time and energy - to their work. Work not only provides financial security for life’s challenges but serves as an engine for personal independence and creative energy. The security of gainful employment and the freedom to explore new opportunities are what the American Dream is all about. The American people deserve a government that values this personal investment as much as they do. They deserve a government which supports their work with workplace and training laws that enable them to be the best trained, most productive, and highest value-adding workers in the world. Creating this positive worker environment for the next millennium is what the American Worker Project is all about.

As we begin a new century, we are presented with new opportunities and challenges for the American workforce. Today, America’s productivity is increasing and more people are working than at any time in our nation’s history. America is leading the way in a fast growing, high-income industry - high-tech. This industry is thriving like few others. Dramatic changes in technology continue to lessen, and often eliminate, the elements of time and distance in global competition. This opens up American markets to foreign competitors while providing U.S. workers and producers with access to foreign markets. These merging markets, global competition, evolving technologies, and many other dynamic changes are rapidly altering the competitive forces within the U.S. and abroad. We must adapt if American workers are to maintain their position of strength internationally.

The American Worker Project evaluated the demands placed on American workers and our ability to compete in this fast-paced global environment. Equally important, it assessed how American workplace law, much of which was developed during the Depression era, either facilitates or inhibits the American economy and the ability of the American worker to respond to the challenges and opportunities of the new millennium. While Congress has recognized the need for major changes in the regulatory framework for the telecommunications and financial industries, workplace law has remained relatively untouched for the last forty years. Today’s question is, **“Are the laws developed in a different era appropriate to maintain and strengthen the position of the American worker in the next millennium?”**

Today's American workplace law is insufficient for the intense global competition of the new millennium. The American Worker Project has outlined at least four major weaknesses that increase cost and inhibit competitiveness. These are:

- The legal framework for the American workplace is overly complex, burdensome, confusing and duplicative, with Federal, state, and local regulators all playing a role. Employers must spend excessive resources complying with a regulatory maze, which drains dollars from investment and employee salaries and increases costs.
- In too many cases, workplace law is actually contradictory. While employers strive to meet the Family Medical Leave Act, they may violate the Americans with Disabilities Act or Workers' Compensation Laws. Again, this places a burden and unnecessary cost on American business and American workers.
- In today's high-tech environment, where teamwork is an essential component of reducing costs, lowering cycle time and increasing competitiveness, Depression-era workplace law places undue restrictions on management and front-line worker cooperation. In other cases, jobs have evolved to a point where traditional job classifications no longer fit, yet employers are still forced to match today's jobs to 1930's labor laws. It just doesn't work.
- As we approach the new millennium, workers are strengthening their marketability through increased flexibility and independence. Although many are demanding alternative work arrangements, workplace and tax laws still provide preferential treatment to those in traditional employee-employer relationships.

American job security and competitiveness are threatened by oppressive and outdated workplace laws. These outdated laws increase the cost and uncertainty of doing business in America. In an increasingly competitive and shrinking world, companies will relocate when business interests dictate a need to do so. **The Federal government has much to learn from America's governors and state legislatures. We must streamline and update our regulatory system to insure that we are globally competitive.** States compete against each other each and every day, knowing that they are in a competitive war. The Federal government must realize that it is in a global competitive war where saving every penny or extracting every advantage is essential. We must allow the American worker to compete effectively, unburdened by a ball and chain of outdated laws.

Complex and outdated laws are not working for America's new high-tech industries, and they aren't protecting workers in long-established industries either. Apparel sweatshops, which by most accounts were eradicated in the U.S. in the 1950s, are thriving once again in places like New York City and Los Angeles. The laws, the agencies responsible for enforcing these laws, employers, and the union responsible for protecting many of the workers are part of a system-wide meltdown of working conditions in this industry. Six low-wage workers, who testified anonymously for fear of retaliation, told of their experiences working in sweatshops in New York City's Chinatown. They described seven-day workweeks, deteriorating health, abysmal working conditions and corrupt schemes such as buying their own paychecks. The existence of sweatshops is unacceptable. We must address the ineffectiveness of workplace law.

In addition, the American Worker Project and our Teamsters investigation demonstrated the ineffectiveness of the Labor-Management Reporting and Disclosure Act (LMRDA) in protecting America's unionized workers. The mandated union reports are routinely ignored by the Department of Labor and do not provide an accurate or timely appraisal of a union's financial status. They do not provide members with the information to monitor the activities of their own union.

We must update American workplace law to correct its clearly identified shortcomings in meeting today's needs.

Finally, in an era where life-long learning is a necessity, outdated Federal and state regulations hinder progressive training programs. One example was our research finding that government sponsorship of apprenticeship programs was based, not on effectiveness or outcomes, but on whether or not the programs were union sponsored. Tax law and workplace law must allow for a wide range of learning opportunities for people at all levels of the economic spectrum and stages in their careers. We must promote life-long learning and career development.

Findings and Recommendations

Meeting competition head-on, through policies that empower Americans to dominate global competition, is the wisest way to secure our future. It is the only approach that will have lasting results. This Project does not propose to eliminate the cornerstones of our existing workplace law, but to reinforce them by updating existing law to optimize America's competitive posture in the global marketplace.

The federal government must create an environment conducive to business, or companies and jobs can and will go overseas. Policy makers cannot assume that employers will stay in the U.S. when they are overburdened with conflicting laws and regulations. No longer is it true that what is good for business is good for the United States. Today's issue becomes "is the U.S. good for workers?" And "is the U.S. creating high-quality jobs?" On the federal level, public policy must be crafted with an eye toward competing for business and jobs to stay in this country. American policy makers must create an environment in which business can thrive. We must ensure that employers want to do business in the U.S.

The American Worker Project reviewed workplace law in enough detail to judge whether it is sufficient to deal with the challenges of the next century. Having found a critical mass of the law insufficient, we began to develop a framework for change. The next challenge is to make the necessary changes to ensure that America remains the most effective and most prosperous work environment in the world. These are our key suggestions for vitally needed change.

- High-tech and other American industries are hampered by Depression-era workplace laws. These laws assume an all male, all white, 40 hour work-week in a top-down setting, where employees are clearly "management" or "worker". For example, the Fair Labor Standards Act of 1938 imposes antiquated definitions of exempt and non-exempt workers while the National Labor Relations Act of 1935 inhibits participative management. Use of creative staffing approaches such as temporary, part-time, and independent contractors finds impediments in tax and workplace laws which impose differing definitions. Congress should revisit these definitions and restrictions, and make the necessary changes to bring greater flexibility and rationality to administration of these laws.
- Congress should secure the future of today's worker, who changes jobs and careers more than ever before, by ensuring that laws are flexible and tax neutral in allowing benefits to be tied to either the employer or the employee. Specifically, Congress should investigate providing a legal option for employees to carry a range of vested benefits from job to job for the duration of their careers.
- Conflicting and contradictory workplace laws confuse those covered by them, hinder their efforts to comply and deter from their effectiveness and efficiency. Federal and state governments should develop a process to streamline laws and reduce regulatory costs. Congress should pass legislation acknowledging that compliance with one regulation may actually lead to violation of another and safeguard those who are in compliance with one of the standards. Agencies should end their parochialism and instead coordinate their implementation of laws to avoid such conflicts and contradictions.
- The resurgence of sweatshops in the apparel industry highlights a disturbing trend. The federal government must re-evaluate its model of enforcement, considering new approaches such as independent monitoring programs. In a related area, the Garment Industry Proviso [NLRA, Section 8(e)] presents a significant departure from other areas of the law and requires that Congress review the special exemption and revise as necessary.
- In fairness to union members, government monitors and union leadership, Congress should evaluate current requirements for union financial disclosure under the Labor-Management Reporting and Disclosure Act. As appropriate, Congress should update requirements and practices to ensure that the information provided is informative, useful, accurate, timely and complete.
- This country, already suffering from a severe shortage of qualified workers, continues to produce graduates unqualified to compete in the workplace. The Subcommittee on Oversight and Investigations Report entitled "Education at a Crossroads" provides recommendations on how we can improve the educational system to meet the needs of our students.

- The realities of the new economy require workers to continue learning throughout their careers. Tax and workplace laws should encourage employers to provide, and employees to partake in, opportunities for life-long learning.

With these and other changes, we can meet the challenges of a new century. With these and other changes, we will secure the future for ourselves and our children.